

BASEL ACTION NETWORK

For immediate release:

GREEN ACTIVISTS INTEND TO SUE TO PREVENT EXPORT OF TOXIC U.S. SHIPS

Seattle, WA; San Francisco, CA; Richmond, VA; USA. 9 September 2003. The Sierra Club and the Basel Action Network (an activist group working to halt international toxic waste trade), have indicated their intent to seek judicial relief in order to prevent the Environmental Protection Agency (EPA) and the Maritime Administration (MARAD) from endangering the environment by permitting the towing of 13 obsolete, rusting old naval vessels, currently floating as part of the "ghost fleet" in the James River in Virginia, across the Atlantic to the United Kingdom. The action sought would require the government to respect the letter of the Toxics Substances Control Act (TSCA), which forbids the export of polychlorinated biphenyls (PCBs), toxic persistent organic chemical compounds, that the ships are known to contain (along with considerable volumes of hazardous asbestos and old fuel oil.

While the activists are strongly in support of removing the ships from the James River and recycling them as soon and as safely as possible, there is strong objection to the EPA deciding unilaterally to exercise "enforcement discretion" to bend the law to allow the Maritime Administration to export such vessels for dismantling abroad. They cite provisions within TSCA which allow for exceptions via a rule-making procedure which would allow public comment and due process -- an avenue that was short-circuited by EPA's exercise of "enforcement discretion". Of great concern to the activists besides the considerable risk of accidental losses or spills posed by the towing of these decaying fuel-laden vessels across the Atlantic Ocean in the middle of autumn, is the precedent that would be set of bending TSCA by fiat rather than by due process. This precedent could later be utilized in the same way to send literally hundreds of obsolete decommissioned naval vessels from the United States to shipbreaking yards in Asia.

"We believe this export to UK is MARAD's way of testing the export waters, and setting unfortunate legal precedents, while looking all the while to export the bulk of these dirty ships to the infamous shipbreaking yards in Asia, where workers have few rights and little protection from asbestos and PCBs." said Basel Action Network (BAN) coordinator Jim Puckett.

Already MARAD and EPA sent an entourage to China earlier this year but the exploratory visit was cut short by the outbreak of the SARS virus. In December 1997 the Baltimore Sun published a series of articles highlighting the horrific conditions in the ship-scrapping yards of Asia which led to the Clinton Administration adopting a moratorium on export of US government ships in

1998. That moratorium stood for 5 years until it was overturned late last year by Congress when they provided MARAD with funds for a pilot project to explore export options. Notably, the appropriations bill explicitly states that the pilot program must be carried out "in accordance with applicable provisions of law and regulations."

In their legal intent letter to EPA, the Sierra Club and BAN indicated that they had information from Friends of the Earth in the UK that the permission was granted before the recipient dismantling facility (AbleUK) had even gotten the permission to build the necessary drydock and such dock might not be approved as it impacts two specially protected marine areas. Further, it was revealed that the United States State Department had influenced the decision that prompted the UK to allow the import by apparently telling them that the US lacked technical capacity to dismantle the ships themselves and that unless the UK took the ships they were likely to go to Asia. According to the activists both of these allegations are false.

The letter calls on the EPA to revoke the May 22 "enforcement discretion" until MARAD requests a proper waiver by rule pursuant to the requirements of TSCA; and until EPA grants such waiver by rule based upon a finding that no unreasonable risk of injury to health or environment would result from such waiver. In undertaking such rule-making, EPA should ensure, that all authorities for fulfilling the contracts and conditions are in place and the authorities in the UK are made aware that the United States possesses full capability of handling these vessels domestically.

"We believe that if the public or even the EPA knew all of the facts of this misguided toxic ship dumping plan, the deal would have been scuttled a long time ago," said Aaron Isherwood, Sierra Club legal council. "The export of these made-in-USA toxic waste ships to other nations is reprehensible given the transport risks involved and the fact that dozens of qualified and needy shipbreaking firms here at home can do the recycling job, safely and responsibly."

END

Attached: Letter to EPA from BAN, Sierra Club

For more information contact:

Jim Puckett, Basel Action Network (BAN), Coordinator: 1.206.652.5555, cell 1.206.779.0363
Aaron Isherwood, Sierra Club Legal Staff, 1.415.977.5680
Michael Town, Sierra Club, Virginia Chapter, Director: 1.804.225.9113

BASEL ACTION NETWORK (BAN)

c/o Asia Pacific Environmental Exchange (APEX)